

1 Lawrence J. Dreyfuss, Bar No. 76277
2 THE DREYFUSS FIRM
3 A Professional Law Corporation
4 7700 Irvine Center Drive, Suite 710
Irvine, California 92618
(949) 727-0977; Facsimile (949) 450-0668

5 Attorneys for Defendant T.D. Service Company

6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 CHRISTOPHER JANUARY,) Case No.: SACV11-1133-AG (RNBx)
11)
12 Plaintiff,)
13 vs.) DECLARATION OF LAWRENCE J.
14 TD SERVICE COMPANY,) DREYFUSS PURSUANT TO LOCAL RULE
15 Defendants) 7.3 CONCERNING MOTION TO DISMISS
) AMENDED COMPLAINT
)
) DATE: OCTOBER 17, 2011
) TIME: 10:00 a.m.
) DEPT.: 10D

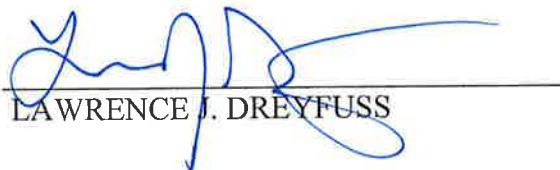
17
18 I, Lawrence J. Dreyfuss, declare:

19 1. I am an attorney licensed to practice in the State of California and before the United
20 States District Court for the Central District of California. I am a principal of The Dreyfuss Firm,
21 plc, attorneys of record for defendant T.D. Service Company.

22 2. I called the telephone number for the pro se plaintiff at approximately 10:10 a.m.
23 on August 22, 2011 to discuss the issues being raised in the motion to dismiss. I reached his
24 answering machine and left a detailed message explaining the purpose of my call and requested
25 that he call me back to discuss the issues to be raised in the motion to dismiss. I also sent an
26 email at approximately 10:15 a.m. that same day stating the same information (a copy of which
27 is attached as Exhibit "A").
28

1 3. On August 23, 2011 at approximately 10:30 a.m. Mr. January called me back. He
 2 acknowledged that he had already read our moving papers. I summarized for him the arguments
 3 contained in the motion. Specifically I pointed out that there are multiple cases indicating that
 4 nonjudicial foreclosure does not constitute debt collection pursuant to the Fair Debt Collection
 5 Practices Act. I pointed out that he could not plead a cause of action for fraud since there was no
 6 possible detrimental reliance. He acknowledged that he did not rely upon the statements
 7 contained within the Notices of Default and Sale, and in fact disputed them. I also pointed out
 8 that emotional distress damages are not available in the context of financial loss. We discussed
 9 in detail the role of a foreclosure trustee in processing the paperwork for a foreclosure and that it
 10 is merely a ministerial agent acting on the instructions of the foreclosing beneficiary which in
 11 this case is Bank of America. Mr. January indicated that he had dismissed Bank of America
 12 from his action since it had not demanded money from him. I pointed out that any demand from
 13 T.D. Service Company was merely as agent on behalf of Bank of America and that any money
 14 paid would go to Bank of America and not T.D. I also explained that he is seeking quiet title and
 15 to enjoin the foreclosure, but has dismissed Bank of America which is the party who would be
 16 affected by any such relief so that his case cannot proceed in this manner. I suggested that he
 17 speak with an attorney to clarify these points since he was apparently getting some inaccurate
 18 advice. In any event, Mr. January indicated that he would not dismiss any of the claims in the
 19 amended complaint and intended to proceed with the lawsuit in its present form. It was therefore
 20 necessary to proceed with the filing of the motion to dismiss.
 21

22 I declare under penalty of perjury under the laws of the United States that the foregoing is
 23 true and correct and that this declaration was executed this 23rd day of August 2011 at Irvine,
 24 California.
 25

26
 27 
 28 LAWRENCE J. DREYFUSS

1040-2621

Larry Dreyfuss

From: Larry Dreyfuss

Sent: Monday, August 22, 2011 10:17 AM

To: 'colist@iax1.inbox5.com'

Subject: January v. TD Service Company

I am filing a motion to dismiss the amended complaint largely for the same reasons addresses in the initial motion and also because you dismissed Bank of America which is a necessary party for the quiet title and other related relief sought. I am attempting to meet and confer with you concerning this motion pursuant to Local Rule 7.3. Please contact me to discuss the motion.

Lawrence J. Dreyfuss
The Dreyfuss Firm, plc
7700 Irvine Center Drive #710
Irvine, CA 92618
(949) 727-0977
(949) 450-0668 (facsimile)
larry@dreyfusslaw.com

8/22/2011

PROOF OF SERVICE (By Mail)
(CCP Section 1013a(3))

I am over the age of 18, and I am not a party to the within action. I am employed by THE DREYFUSS FIRM. PLC, in the County of Orange, at 7700 Irvine Center Drive, Suite 710, Irvine, CA 92618.

On August 23, 2011, I served the attached: **Declaration of Lawrence J. Dreyfuss pursuant to Local Rule 7.3** on the interested parties in this action by placing true copies thereof in sealed envelopes, addressed as follows:

Christopher January
1417 South Ridgeley Drive
Los Angeles, CA 90019

☒ **(By Mail)** I placed said envelopes for collection and mailing, following ordinary business practices, at the business offices of THE DREYFUSS FIRM, PLC at the address set forth above, for deposit in the United States Postal Service. I am readily familiar with the practice of THE DREYFUSS FIRM, PLC for collection and processing of correspondence for mailing with the United States Postal Service, and said envelopes will be deposited with the United States Postal Service on said date in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **(By Facsimile Transmission)** I served the above-described document on the interested parties in this action by sending a true copy thereof by facsimile transmission pursuant to California rules of Court, Rule 2009(i)2, from facsimile machine number (949) 450-0668. The facsimile machine I used complied with California Rules of Court, Rule 2003(3), and no error was reported by the machine. Pursuant to Rule 2009(i)4, I caused the machine to print a transmission record of the transmission

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed on August 23, 2011, at Irvine, California.


Roma Klein